UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

HEALTHBRIDGE MANAGEMENT, LLC;107
OSBORNE STREET OPERATING COMPANY II,
LLC D/B/A DANBURY HCC; 710 LONG RIDGE
ROAD OPERATING COMPANY II, LLC D/B/A
LONG RIDGE OF STAMFORD; 240 CHURCH
STREET OPERATING COMPANY II, LLC D/B/A
NEWINGTON HEALTH CARE CENTER; 1 BURR
ROAD OPERATING COMPANY II, LLC D/B/A
WESTPORT HEALTH CARE CENTER; 245
ORANGE AVENUE OPERATING COMPANY II,
LLC D/B/A WEST RIVER HEALTH CARE
CENTER; 341 JORDAN LANE OPERATING
COMPANY II, LLC D/B/A WETHERSFIELD
HEALTH CARE CENTER

Case Nos. 34-CA-12715 34-CA-12732 34-CA-12765 34-CA-12766 34-CA-12767 34-CA-12769 34-CA-12770 34-CA-12771

and

NEW ENGLAND HEALTH CARE EMPLOYEES UNION, DISTRICT 1199, SEIU, AFL-CIO

COUNSEL FOR THE ACTING GENERAL COUNSEL'S OPPOSITION TO RESPONDENTS' MOTION TO STAY PROCEEDINGS

Pursuant to Section 102.24(b) of the Board's Rules and Regulations, as amended, Counsel for the Acting General Counsel files the following Opposition to Respondent's Motion to Stay Proceedings.

Respondents' Motion to Stay Proceedings (Motion to Stay) argues, at the eleventh hour, that the Board lacks authority to act in this matter because only two members of the Board were validly appointed. (Motion to Stay, at 2.) Respondents' arguments are without merit. Counsel for the Acting General Counsel need not belabor the merits of Respondents' saunter through Constitutional Law, as the Board has found

that it is not appropriate for it to decide whether Presidential appointments are valid. Instead, the Board applies the well-settled "presumption of regularity support[ing] the official acts of public officers in the absence of clear evidence to the contrary." *Lutheran Home at Moorestown*, 334 NLRB 340, 341 (2001), citing *U.S. v. Chemical Foundation*, 272 U.S. 1, 14-15 (1926); *Center for Social Change*, 358 NLRB No. 24 (2012). Respondents' arguments should therefore be rejected by the Board.

Furthermore, Counsel for the Acting General Counsel notes that the unfair labor practices in this case have a direct bearing on current 10(j) proceedings in Federal Court. The Regional Director is currently seeking injunctive relief, pursuant to the Board's authorization under § 10(j) of the Act, in Case Nos. 34-CA-070823, et al., where it is it is alleged, *inter alia*, that the same Respondents unilaterally implemented their last, best final offer in June 2012 without a valid impasse. The Regional Director has alleged that the unfair labor practices described in Administrative Law Jude Fish's Decision and Order in the instant case precluded a lawful impasse, therefore rendering the implementation unlawful. Any delay in the instant case will prejudice the Regional Director's efforts to procure injunctive relief. Similarly, Case Nos. 34-CA-070823, et al., are also currently being tried before Administrative Law Judge Chu. For the same reasons as noted above, a delay in the instant case will also prejudice the Acting General Counsel's case in those proceedings.

For the reasons above, Respondents' Motion to Stay Proceedings should be denied.

Dated Hartford, Connecticut, this 2nd day of November, 2012.

Respectfully submitted,

Thomas E. Quigley John A. McGrath

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that copies of the aforesaid Opposition to Respondents' Motion to Stay was served on November 2, 2012, in the manner set forth below:

Lester A. Heltzer, Executive Secretary National Labor Relations Board 1099 14th St. N.W. Washington, DC 20570-0001 e-file

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